

AGREEMENT TO ADMINISTER A RENEWED MERCHANT-BASED
BUSINESS IMPROVEMENT DISTRICT

AGREEMENT NO. _____

This Agreement ("Agreement") is entered into by and between the CITY OF LOS ANGELES, a municipal corporation ("City"), and the LI'L TOKYO BUSINESSMEN'S ASSOCIATION, a California nonprofit mutual benefit corporation ("Corporation"), for the administration of the Little Tokyo Business Improvement District ("District"), with reference to the following facts:

RECITALS

- A. On July 29, 2003, the Los Angeles City Council ("City Council") established the Little Tokyo Business Improvement District, pursuant to Section 36500 et seq. of the California Streets and Highways Code ("Code"), by and through the adoption of Ordinance 175399 (Council File No. 03-1161).
- B. On May 22, 2018, pursuant to the Code, the City Council adopted Ordinance 185542 (Council File No. 14-0385) confirming the District's Annual Report ("Annual Report") for its 2018 fiscal year attached to this Agreement as "Attachment 1" and incorporated herein by reference, and declaring its intention to levy a special assessment upon businesses located within the District for the 2018 fiscal year.
- C. On June 19, 2018, pursuant to the Code, the City Council adopted Ordinance 185616 ("Ordinance"), which authorized the levy of a special assessment to support District operations for the District's 2018 fiscal year.
- D. Pursuant to the aforementioned Ordinance and the enabling law, a system of charges has been assessed upon the various businesses located within the District.
- E. Such assessments levied and collected by City shall be used only for the purposes set forth in said Ordinance, except for any City costs or expenses that are charged to the District by City for the administration of the District's program.
- F. The improvements to be arranged, performed, secured, or otherwise administered or managed by Corporation, functioning as the District service provider, contribute to the economic and promotional well being of the community.
- G. The services and activities to be performed by Corporation are of a supplemental nature, such that, were it not for the establishment of the District, the supplemental services could not or would not be performed by City or City employees, and such that the interests of City are better served by an agreement with Corporation than by the performance or attempted performance of such supplemental services and activities by City.
- H. The City Council has determined that the public interest, convenience and necessity require the execution of this Agreement for the provision of services by the Corporation.
- I. The City Council has authorized the Los Angeles City Clerk ("City Clerk"), as Business Improvement District Program Coordinator, and subject to approval by the Los Angeles City Attorney ("City Attorney"), to execute and administer this Agreement for the administration of the District program.
- J. Prior to the execution of this Agreement, Corporation began performance of the services required hereunder in accordance with this Agreement.

NOW THEREFORE, City and Corporation in consideration of the recitals, mutual promises, covenants, agreements, and representations set forth below, hereby promise, covenant, agree, and represent as follows:

SECTION 1. PERIOD OF PERFORMANCE

- 1.1. The term of this Agreement shall be from January 1, 2018 to December 31, 2018, unless amended by mutual agreement of both parties through a written amendment to this Agreement.

SECTION 2. CORPORATION RESPONSIBILITIES

- 2.1. **PROGRAM IMPLEMENTATION AND OPERATION.** Corporation shall be fully responsible for developing, implementing, directing, and operating the District's programs, improvements and activities, as described in the Ordinance and the Annual Report set forth in Attachment 1, attached hereto and incorporated fully by reference, and pursuant to the Code. Corporation understands and expressly agrees that it will comply with all applicable laws and regulations and maintain its nonprofit status for the duration of this Agreement.
- 2.2. **ACTIVITY REPORTS.** The activity reports shall explain, in narrative form, the status and progress of the various District programs, improvements and activities, as described in Attachment 1 and Section 2.1 of this Agreement. The activity reports shall include an itemization of funds used during the subject period for each improvement and activity, as indicated in Attachment 1. The activity reports shall be due as follows:

Period Covering:

January 1 – March 31
April 1 – June 30
July 1 – September 30
October 1 – December 31

Submit by:

April 15, 2018
July 15, 2018
October 15, 2018
January 15, 2019

- 2.3. **ANNUAL REPORT.** By October 1, 2018, Corporation shall cooperate with the District's Advisory Board, relative to the preparation and submission to the City Council of an Annual Report, outlining the District's plans, goals, and budget for the ensuing fiscal year, including all documentation, as required by Section 36533 of the Code. The Annual Report shall also include an itemization of funds used and activities performed during the current fiscal year. The Advisory Board shall approve the Annual Report prior to submission to the City.
- 2.4. **ASSESSMENT RECORDS.** Corporation shall maintain a complete database or other comprehensive listing, current to the most recent stakeholder information available, depending on the variables used to calculate stakeholder assessments according to the District's Annual Report and budget. This information must include all the data and information for each stakeholder pertaining to the variables that are necessary to calculate all assessments for the District, as required by the City Clerk. This information may include business type, business license and ownership, address of all businesses in the District; the name and address of the legal owner of each business; the amount of Assessment levied upon each business; the proportionate financial obligation of the Assessment levied upon each business, in relation to the entire District Assessment; and the Assessment calculations for each business, including all variables used in the calculation of the Assessment. The City Clerk may, at its discretion, provide assistance in compiling or correcting assessment data or information relative to properties and businesses in the District; however, the City Clerk shall in no way be obligated to prepare, produce or correct such data or information. Corporation agrees to make such District data available at the Corporation's office for inspection by stakeholders in the District

during regular business hours.

A. UPDATES. Corporation shall verify database information and provide City Clerk with updated changes to database at least twice each year. The first update shall take place no later than three weeks after City Council adoption of an Ordinance of Intention to reconfirm a levy of assessments on the District (renewal of assessments). Corporation shall use due diligence to obtain the most accurate information for undeliverable correspondence returned as a result of public notification required by Section 36534 of the Code. The City Clerk will furnish a listing of undeliverable correspondence to the Corporation. The second update shall take place no later than 12 (twelve) weeks after mailing of the levy of assessments to stakeholders within the District. The second update shall include the most updated and accurate information for undeliverable correspondence returned as a result of required public notification as well as requests for changes made by stakeholders regarding address or other informational changes. The City Clerk will furnish a listing of undeliverable correspondence and stakeholders' request for changes to the Corporation.

B. SUBMISSION. Corporation shall submit a complete database as an attachment to the Annual Report mentioned in Section 2.3 no later than October 1, 2018. Said database should contain business information current as of the date of submission. The total budget amount listed in the Annual Report mentioned in Section 2.3 shall be supported by the total business assessment figures listed in the submitted database.

2.5. FINANCIAL STATEMENTS. By April 1, 2019, Corporation shall submit to the City Clerk, in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accounts, a full disclosure financial statement, which includes a statement of financial position and the related statements of activities, covering the subject fiscal year along with a Certified Public Accountants' review report for that fiscal year.

2.6. PROGRAM COORDINATION. Corporation shall render services in accordance with the Annual Report and the terms of this Agreement, and shall cooperate with the City Clerk in the execution of the Annual Report and this Agreement.

2.7. SUPPORT SERVICES. Corporation shall be responsible for the contracting of support services, as required, and paying for all such direct and indirect expenses, as may be necessary for the timely completion of work. Any obligations or expenditures for items not budgeted shall not be paid through assessments collected for the District. In administering subcontracts as necessary for providing District programs, improvements and activities, Corporation shall comply with all applicable State, County and City laws and regulations.

2.8. LIASON WITH COMMUNITY. Corporation shall maintain an ongoing relationship with the community. This relationship shall include events and activities that involve the members of the District and encourage the attainment of the District's goals and objectives described in the Ordinance and Attachment 1. Corporation's responsibilities encompass the following areas:

A. PUBLIC MEETING. Corporation shall organize and conduct, at a minimum, one stakeholders' meeting to be noticed in writing by Corporation to all assessed business establishments in the District. The meeting shall be conducted at a location within the District. At the meeting, Corporation shall provide a forum for the business owners and other members of the District to familiarize themselves with the functions of Corporation and to express their concerns and desires to Corporation's representative(s). At least one stakeholders' meeting shall be held no later than the end of the fiscal year. This meeting shall be held in addition to Corporation's Board of Directors regularly scheduled meetings.

B. NEWSLETTERS. Corporation shall prepare a District newsletter along with the activity reports, as stated in Section 2.2 of this Agreement, at a minimum, and shall distribute it to all assessed business establishments in the District. Corporation may, at Corporation's discretion, provide the newsletter using standard mail or electronic transmission. The newsletter shall be designed to facilitate and maximize the exchange of information between Corporation, City and the members of the District. Each issue of the newsletter shall be submitted in duplicate to the City Clerk.

- 2.9. BUDGET. Each program, improvement, or activity specified in the Annual Report, and described in section 36533 of the Act, shall be implemented by Corporation. Corporation and City agree that amounts shown in the Annual Report were the best estimates of the cost of those programs, improvements or activities at the time those estimates were made. Deviations from those estimates may be anticipated. City and Corporation also agree that the programs, improvements and activities may not be completed within the year budgeted, given normal delays that can be expected in these types of programs. Corporation will use its best efforts to implement and complete all programs, improvements and activities specified in the Annual Report. If Corporation decides to make any changes to the Annual Report, Corporation will request City Council authorization to make said modifications pursuant to Section 36540 and 36541 of the Act. In no event may Corporation spend more than the total amount budgeted in the Annual Report for any given year, including delinquent payments, interest income, and rollover funds, without City Clerk or City Council approval.
- 2.10. CONTRACT COMPLIANCE. Corporation shall comply with all requirements stated in Section 2 of this Agreement. Non-compliance may result in a delay of funds disbursement and termination of this Agreement, in accordance with Sections 5 and 15 of this Agreement.
- 2.11. Corporation shall not employ or subcontract with anyone where such employment or subcontract would constitute a violation of California Government Code Section 1090 et seq.
- 2.12. AVAILABILITY OF DOCUMENTS. The designs, plans, reports, files, invoices, investigations, materials, and documents prepared or acquired by or for Corporation pursuant to this Agreement (including any duplicate copies) shall be made fully available to City by Corporation. Corporation agrees to exercise reasonable and due diligence in providing for the secure storage of all such materials and to provide copies for official City records upon request from the City Clerk.

SECTION 3. CITY RESPONSIBILITIES

- 3.1. The City Clerk may assist with the resolution of any discrepancies in individual Assessment amounts, calculations or benefits. The City Clerk reserves the right to:
- A. Make reasonable efforts to effect the timely collection of the annual assessment.
 - B. Coordinate the collection of the annual assessment through direct billing or other means, as the City Clerk deems appropriate.
 - C. Hold all assessments in an interest bearing account that is maintained on behalf of the District. Interest earned shall be added to the assessments collected and distributed to Corporation.
 - D. Make reasonable efforts to pursue delinquent assessments and remit such assessments to Corporation, including interest and penalties, subject to City's ability to recover costs for pursuing such assessments.

- E. Maintain a continual liaison with Corporation, including assisting with the coordination of services from various other City departments, bureaus and agencies.
- F. Monitor the implementation and completion of programs, improvements and activities, as specified in the Ordinance and Attachment 1.
- G. Conduct reviews of existing primary data, verify assessment data as compiled by any consultant or subcontractor hired by Corporation, and perform field or site inspections to verify the accuracy of existing or secondary data or substantiate a claim made by an assessed party in the District with the cooperation of Corporation.
- H. Recalculate or direct Corporation to recalculate the assessment amount due and/or make arrangements with Corporation and the business owner to resolve the disputed assessment.
- I. Any of the actions by the City Clerk may require a written request from the Corporation to conduct the investigation. Additional related documentation, such as a written request from the affected assessed party, may also be required. All City Clerk expenses associated with such supplemental investigations may be recovered from the District assessment funds collected, subject to existing or future City policies and procedures regarding recoverable costs and expenses. Such costs will be in addition to those costs set forth in Subsections 6.1 and 6.2 of this Agreement.

SECTION 4. REFUNDS AND ADJUSTMENTS

- 4.1. The City Clerk shall reserve the right to retain a sum equal to the amount of assessments known to be in dispute for a period of forty-five (45) calendar days after the close of the fiscal year on December 31, 2018, as a contingency fund for the processing of valid claims for refunds or adjustments submitted to City by business establishments within the District. In accordance with the Los Angeles Municipal Code, City standard policy for processing claims for refunds or adjustments shall apply. The City Clerk shall advise Corporation of all disputes within ten (10) days of receipt of written documentation supporting any claims received.

SECTION 5. DISBURSEMENTS

- 5.1. Funds, as requested by Corporation and agreed to by City, shall be disbursed to Corporation, as available. The amount requested shall be for anticipated expenses and cannot exceed the total for all programs, less any City expenses, reimbursable costs and any monies advanced to Corporation by City. Corporation shall be in current compliance with all applicable provisions of this Agreement, including, but not limited to, Sections 2 and 5 of this Agreement, prior to any disbursement of assessment funds to Corporation by City. The City Clerk shall endeavor to notify Corporation of these assessments and other funds collected.
- 5.2. Corporation shall submit requests for funding to the City Clerk. The first funding request shall be due no later than fifteen (15) days after the commencement of the first period, as described in Section 2.2 of this Agreement. All subsequent funding requests shall be due fifteen (15) days after the commencement of the second period, as described in Section 2.2 of this Agreement.

Funding requests shall provide an itemized listing of the funding needed for the relative period. All funding requests shall contain the following statement by Corporation certifying its compliance with this Agreement:

"Payment requested is for services performed in accordance with the provisions of Agreement No. _____."

- 5.3. The City Clerk shall notify Corporation of the amount of delinquent assessments that have been collected and are available to Corporation for District programs, improvements and activities. Corporation shall invoice City for the amount of delinquent assessments. The City Clerk agrees to disburse the amount due Corporation within twenty (20) business days of receiving said invoice, subject to Corporation's compliance with Section 5.1 of this Agreement and except in the case of circumstances beyond the control of the City Clerk.
- 5.4. The City Clerk may withhold either all or some portion of the actual revenues received from assessments if the City Clerk finds that Corporation is not properly administering the budget, in accordance with the Ordinance, Attachment 1 and Subsections 2.2, 2.3, 2.5, 2.8(A) & (B), 2.9 (insofar as it requires Corporation to create a budget and expend funds pursuant to this Agreement and the Annual Report, and in compliance with the Code), and 2.10 of this Agreement. The City Clerk will notify Corporation and set forth the specific problems and issues relative to Corporation's failure to properly implement the programs, improvements and activities stated in the Ordinance, Annual Report and Section 2 of this Agreement. The City Clerk and Corporation will immediately attempt to cure the problems. Funds will be released upon the implementation of an acceptable cure, subject to the approval of the City Clerk and possible modification of the disbursement schedule. This does not alter or diminish in any way City's right to proceed in a manner consistent with Section 36550 of the Code or other applicable law or invoke other appropriate remedies.
- 5.5. City shall reserve the right to authorize supplemental assessments, adjusted assessments, assessment exemptions, reductions, or refunds to be issued by City, subject to notification to Corporation prior to making the adjustment.
- 5.6. If Corporation is dissolved, dissolves itself or no longer has nonprofit status for any reason, prior to or upon the expiration of this Agreement, any unexpended monies will be transmitted to City for distribution, as described in Section 10 of this Agreement. Corporation will immediately notify the City Clerk of any change in corporation status.

SECTION 6. COSTS AND EXPENSES

- 6.1. RECOVERABLE CITY COSTS. The recoverable City costs associated with assisting Corporation with the District's billing, account maintenance program, report reviews, as well as liaison activities, and the District's general administration shall be reimbursed to City. City shall deduct recoverable City costs from the District's special fund and may withhold such costs prior to making any disbursement of funds to Corporation.
 - A. The recoverable City costs are three percent (3%) of the total annual assessments, plus an additional one percent (1%) for departmental costs associated with the direct billing of BID stakeholders, which is reimbursable from the District's assessment funds. The reimbursable direct costs and expenses include salaries, general expenses and the District's share of required program equipment costs.
 - B. The recoverable City costs for any extension to this fiscal year may be applied on a pro rata basis of the fiscal years' estimated costs.
 - C. The amounts and categories of allowable recoverable or reimbursable City costs are subject to existing or future City policies and procedures regarding recoverable City costs and expenses and remain subject to review and action by the City Council. In no

event will a change in policies or procedures be imposed on Corporation during the fiscal year, such that the change would require additional funds to be paid to City.

- 6.2. **STANDARD CITY FEES.** All standard City fees, including but not limited to, fees or service charges for reproduction or transmittal requests or for the generation of real property or business ownership lists, reports or specific documents, may be applied to requests by Corporation. Such fees are in addition to the estimated costs and fees in Sections 6.1 and 6.3 of this Agreement.
- 6.3. **SUPPLEMENTAL CITY FEES.** Supplemental fees may be charged to Corporation by City to cover the additional costs incurred for specialized services, including but not limited to: researching and compiling data; preparing specialized types of reports specific to the needs of the Corporation; and performing site inspections as described in Section 3.1 of this Agreement. Corporation may request the performance of all such specialized services in writing. If City determines to proceed with said request, City shall notify the Corporation of any applicable fees prior to performing the specialized service requested. City may initiate such special services to resolve discrepancies or assessment benefit problems. City will notify Corporation thirty (30) days prior to initiating such services in order to allow the Corporation to resolve the need for such specialized services. If notice is not given but City does conduct specialized services, the cost of those specialized services will be borne by the City. Such fees shall be deducted from the Assessments collected or shall be paid in advance by the Corporation, at the City Clerk's discretion and are in addition to costs and fees set forth in Sections 6.1 and 6.2 of this Agreement.

SECTION 7. RETENTION OF RECORDS, AUDIT AND REPORTS

- 7.1. In accordance with generally accepted accounting principles, Corporation shall maintain full and complete records of activities and services performed under this Agreement, in their original form. Such records shall be open to the inspection of City and City may audit such records. Corporation agrees to keep all such records on file in a secure location for a minimum of three (3) years subsequent to the expiration of this Agreement.
- 7.2. The records maintained by Corporation shall include, but shall not be limited to, all invoices and receipts for District related expenditures incurred and must include supporting documentation for the activities or programs described in the District budget or Annual Report. City reserves the right to perform a contract compliance audit at least once annually. Corporation shall provide any records or reports requested by the City regarding performance of this Agreement. Corporation agrees to keep all receipts and other supporting documents available for inspection and as specified in Sections 7 and 10 of this Agreement.

SECTION 8. INSURANCE

8.1. General Conditions

- A. During the term of this Agreement and without limiting Corporation's indemnification of the City, Corporation shall provide and maintain at its own expense a program of insurance having the coverages and limits customarily carried and actually arranged by Corporation but not less than the amounts and types listed on Form General 146 (Rev. 03/09) (attached hereto as Exhibit 1). Such insurance shall conform to City requirements established by Charter, ordinance or policy, shall comply with the instructions set forth on Form General 133 (Rev. 05/12) (included in Exhibit 1) and with the conditions set forth on the applicable City Special Endorsement form(s), copies of which are included in Exhibit 1, and shall otherwise be in a form acceptable to the City Attorney. Specifically, such insurance shall: 1) protect City as an Insured or an

Additional Interest Party, or a Loss Payee As Its Interests May Appear, respectively, when such status is appropriate and available depending on the nature of the applicable coverages; 2) provide City at least thirty (30) days advance written notice of cancellation, material reduction in coverage or reduction in limits when such change is made at the option of the insurer; and 3) be primary with respect to City's insurance program. Except when City is a named insured, Contractor's insurance is not expected to respond to claims, which may arise from the acts or omissions of the City.

8.2. Modification of Coverage

- A. City reserves the right at any time during the term of this Agreement to change the amounts and types of insurance required hereunder by giving Corporation ninety (90) days advance written notice of such change. If such change should result in substantial additional cost to the Corporation due to market-wide unavailability of coverage, City agrees to negotiate additional compensation proportional to the increased benefit to City.

8.3. Failure to Procure Insurance

- A. All required insurance must be submitted and approved by the City Attorney prior to the inception of any operations or tenancy by Corporation. The required coverages and limits are subject to availability on the open market at reasonable cost as determined by City. Non-availability or non-affordability must be documented by a letter from Corporation's insurance broker or agent indicating a good faith effort to place the required insurance and showing as a minimum the names of the insurance carriers and the declinations or quotations received from each.
- B. Within the foregoing constraints, Corporation's failure to procure or maintain required insurance or a self-insurance program during the entire term of this Agreement shall constitute a material breach of this Agreement under which City may immediately suspend or terminate this Agreement or, at its discretion, procure or renew such insurance to protect City's interests and pay any and all premiums in connection therewith and recover all monies so paid from Contractor.

8.4. Workers' Compensation

- A. By signing this Agreement, Corporation hereby certifies that it is aware of the provisions of Section 3700 et seq., of the Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that it will comply with such provisions at all such times as they may apply during the performance of the work pursuant to this Agreement.
- B. A Waiver of Subrogation in favor of City will be required when work is performed on City premises under hazardous conditions.

SECTION 9. NOTICES

- 9.1. Notice to the parties shall, unless otherwise requested in writing, be sent in duplicate to:

City: Shannon D. Hoppes, Executive Officer
Office of the City Clerk
200 North Spring Street, Room 395
Los Angeles, California 90012

Phone (213) 978-1099 / Fax (213) 978-1130

Corporation: Ellen Endo, Co-Chair
Li'l Tokyo Businessmen's Association
250 E. First Street, Suite 201
Los Angeles, CA 90012

Phone (213) 880-6875

- 9.2. Any notice, report, newsletter or other communication required or prepared pursuant to this Agreement shall be deemed to be properly transmitted when delivered via messenger or deposited in the United States mail for delivery to the parties listed above. Changes to the address of any of the parties may be accomplished for purposes of this Agreement by providing written notice of such change via the United States mail.

SECTION 10. REVENUES AND ASSETS OF THE DISTRICT

- 10.1. In the event the District is disestablished, expires, or otherwise terminates, or the Corporation ceases to be a non-profit corporation, all remaining revenue, after all outstanding debts are paid, derived from the levy of assessments, or derived from the sale of assets acquired with the revenues, shall be refunded in the manner described in Sections 36650 and 36651 of the Act.

SECTION 11. CONFLICT OF INTEREST

- 11.1. For the duration of this Agreement, Corporation and its employees or agents will not act in a manner which may create District-related conflict of interest. In particular, Corporation's Board of Directors and the District's Executive Director must disclose any material financial interest they have in any matter coming before them for decision. Any Board member, Executive Director or employee shall refrain from participating in the decision-making process relating to any matter in which they may have a material financial interest or conflict of interest.
- 11.2. Nothing in this Section prohibits or precludes Corporation's officers, members, directors, agents, or employees from providing or presenting to other interested parties or entities, information or assistance related to the District's establishment or operations, or to the establishment or operation of other proposed or existing districts throughout the City, where such information or assistance does not create a conflict of interest or disclose confidential information. However, Corporation may not provide those services discussed in Section 2 of this Agreement to any other BID unless the bylaws of both Corporations are amended to permit the provision of such services.
- 11.3. Corporation, in carrying out the improvements and activities as set forth in the Annual Report, should encourage local businesses within the boundaries of the District and within the City of Los Angeles to submit proposals for those services needed by Corporation to implement the improvements and activities. Board Members of Corporation and the Executive Director of the District shall not be precluded from submitting proposals for these services.

SECTION 12. ASSIGNMENT

- 12.1. Corporation covenants and agrees that it will not assign or transfer its rights, including the right to payment, under this Agreement, either in whole or in part, without first obtaining the written consent of City, which consent may be granted or denied at the sole and absolute discretion of City.

- 12.2. Any attempt by Corporation to assign or transfer its rights or obligations without such prior written consent shall be null and void and may, at the option of City, automatically terminate this Agreement.

SECTION 13. GENERAL FUND NOT LIABLE

- 13.1. Neither the General Fund of City, nor any other fund, revenue source or monies whatsoever of City, except for the actual collected District Assessment net revenue, shall be liable for payment of any obligations arising from this Agreement. Said obligations are not a debt of City, nor a legal or equitable pledge, charge, lien, or encumbrance upon any of its property or upon its income, receipts or revenues.
- 13.2. This Agreement embodies all of Corporation's reimbursement rights and no further note or other document shall be required to be executed by City.

SECTION 14. CORPORATION NOT AGENT OF CITY

- 14.1. Neither Corporation or any of Corporation's employees, agents, representatives, or subcontractors are or shall be considered to be agents of City, nor shall Corporation be considered a legislative body, relative to the performance of Corporation's obligations under this Agreement or for any other purpose.

SECTION 15. TERMINATION

- 15.1. City may terminate this Agreement for City's convenience at any time by giving Corporation thirty (30) days written notice thereof. Upon receipt of said notice, Corporation shall immediately take action not to incur any additional obligations, cost or expenses, except as may be reasonably necessary to terminate its activities. City shall pay Corporation its reasonable and allowable costs through the effective date of termination and those reasonable and necessary costs incurred by Corporation to effect such termination. Thereafter, Corporation shall have no further claims against City under this Agreement.
- 15.2. City shall also have the right to suspend this Agreement immediately with written notice to the Corporation in the event City determines that misappropriation of funds, malfeasance, or other violations of law have occurred in connection with the management of the District. City retains the right to immediately commence disestablishment proceedings in accordance with Streets and Highways Code Section 36550 and may seek all other available appropriate remedies pursuant to law. Corporation will have ten (10) days to respond to City's notice of suspension and begin a dispute resolution process.
- 15.3. Further notwithstanding the foregoing, if Corporation ceases to be a non-profit or if a federal or state proceeding for relief of debtors is undertaken by or against Corporation, or if Corporation makes an assignment for the benefit of creditors, then City may immediately terminate this Agreement.
- 15.4. In the event City terminates this Agreement as provided in this section, City may procure upon such terms and in such manner as City may deem appropriate, services similar in scope and level of effort to those terminated, and Corporation shall be liable to City for all its costs and damages, including, but not limited to, any excess costs for such services.
- 15.5. All documents and materials produced or procured by Corporation pursuant to its performance under this Agreement, the Annual Report, the Ordinance, or the Act shall become City property upon date of such termination.

- 15.6. The rights and remedies of this Agreement are not exclusive and are in addition to any other rights or remedies provided by law or under this Agreement.

SECTION 16. SEVERABILITY

- 16.1. If any part, term or provision of this Agreement shall be held void, illegal, unenforceable, or in conflict with any law of a federal, state or local government having jurisdiction over this Agreement, the validity of the remaining parts, terms or provisions of the Agreement shall not be affected thereby.

SECTION 17. CONSTRUCTION OF PROVISIONS AND TITLES HEREIN

- 17.1 All titles or subtitles appearing herein have been inserted for convenience and shall not be deemed to affect the meaning or construction of any of the terms or provisions hereof. The language of this Agreement shall be construed according to its fair meaning and not strictly for or against the City or the Corporation. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

SECTION 18. APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT

- 18.1. Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the City including but not limited to laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. This Agreement shall be enforced and interpreted under the laws of the State of California. Corporation shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Agreement.

SECTION 19. TIME OF EFFECTIVENESS

- 19.1. Unless otherwise provided, this Agreement shall take effect when all of the following events have occurred:
- A. This Agreement has been signed on behalf of the Corporation by the person or persons authorized to bind the Corporation hereto;
 - B. This Agreement has been approved by the City's Council or by the board, officer or employee authorized to give such approval;
 - C. The Office of the City Attorney has indicated in writing its approval of this Agreement as to form;
 - D. This Agreement has been signed on behalf of the City by the person designated to so sign by the City's Council or by the board, officer or employee authorized to enter into this Agreement.

SECTION 20. INTEGRATED CONTRACT

- 20.1. This Agreement sets forth all of the rights and duties of the parties with respect to the subject matter hereof, and replaces any and all previous Agreements or understandings, whether written or oral, relating thereto. This Agreement may be amended only as provided for in Section 22 hereof.

SECTION 21. AMENDMENT

21.1. All amendments hereto shall be in writing and signed by the persons authorized to bind the parties thereto.

SECTION 22. EXCUSABLE DELAYS

22.1. In the event that performance on the part of any party hereto shall be delayed or suspended as a result of circumstances beyond the reasonable control and without the fault and negligence of said party, none of the parties shall incur any liability to the other parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the parties hereunder shall include, but not be limited to, acts of God or of the public enemy; insurrection; acts of the Federal Government or any unit of State or Local Government in either sovereign or contractual capacity; fires, floods; epidemics; quarantine restrictions; strikes, freight embargoes or delays in transportation, to the extent that they are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

SECTION 23. WAIVER

23.1. A waiver of a default of any part, term or provision of this Agreement shall not be construed as a waiver of any succeeding default or as a waiver of the part, term or provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

SECTION 24. INDEPENDENT CONTRACTOR

24.1. The Corporation is acting hereunder as an independent contractor and not as an agent or employee of the City. The Corporation shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of the City.

SECTION 25. PERMITS

25.1. The Corporation and its officers, agents and employees shall obtain and maintain all licenses, permits, certifications and other documents necessary for the Corporation's performance hereunder and shall pay any fees required thereof. Corporation certifies to immediately notify the City of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents.

SECTION 26. CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE REQUIRED

26.1. The Corporation represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by the City's Business Tax Ordinance (Article 1, Chapter 2, Sections 21.00 and following, of the Los Angeles Municipal Code). For the term covered by this Agreement, the Corporation shall maintain, or obtain as necessary, all such Certificates required of it under said ordinance and shall not allow any such Certificate to be revoked or suspended.

SECTION 27. BONDS

27.1 Duplicate copies of all bonds, which may be required hereunder shall conform to City requirements established by Charter, ordinance or policy and shall be filed with the Office of the City Attorney for its review in accordance with Los Angeles Administrative Code Sections 11.47 through 11.5.

SECTION 28. INDEMNIFICATION

- 28.1. **INDEMNIFICATION OF CORPORATION BY CITY.** City undertakes and agrees to defend, indemnify, and hold harmless Corporation and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees and cost of litigation, damage or liability of any nature whatsoever, for death or injury to any person, including Corporation's employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising from the active negligence or willful misconduct incident to the performance of this Agreement by the City or its subcontractors of any tier. The provisions of this paragraph survive expiration or termination of this Agreement.
- 28.2. **INDEMNIFICATION OF CITY BY CORPORATION.** Corporation undertakes and agrees to defend, indemnify, and hold harmless City and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees and cost of litigation, damage or liability of any nature whatsoever, for death or injury to any person, including Corporation's employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner incident to the performance of this Agreement by the Corporation or its subcontractors of any tier. The provisions of this paragraph survive expiration or termination of this Agreement.

SECTION 29. AMERICANS WITH DISABILITIES ACT

- 29.1. Corporation hereby certifies that it will comply with the Americans with Disabilities Act 42, U.S.C. Section 12101 et seq., and its implementing regulations. The Corporation will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. Corporation will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by Corporation, relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

SECTION 30. CONTRACTOR RESPONSIBILITY ORDINANCE

- 30.1. Unless otherwise exempt in accordance with the provisions of this Ordinance, this Agreement is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 et seq., of the Los Angeles Administrative Code, which requires Corporation to update its responses to the responsibility questionnaire within thirty calendar days after any change to the responses previously provided if such change would affect Corporation's fitness and ability to continue performing the Agreement. In accordance with the provisions of this Ordinance, by signing this Agreement, Corporation pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this Agreement, including but not limited to, laws regarding health and safety, labor and employment, wages and hours, and licensing laws which affect employees. The Corporation further agrees to: 1) notify the awarding authority within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that the Corporation is not in compliance with all applicable federal, state and local laws in performance of this Agreement; 2) notify the awarding authority within thirty calendar days of all findings by a government agency or court of competent jurisdiction that the Corporation has violated the provisions of Section 10.40.3(a) of the Ordinance; 3) ensure that its subcontractor(s), as defined in the Ordinance, submit a Pledge of Compliance to awarding authorities; and 4) ensure that its subcontractor(s), as defined in the Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify Awarding Authorities within thirty calendar days after any government

agency or court of competent jurisdiction has initiated an investigation or has found that the subcontractor has violated Section 10.40.3(a) of the Ordinance in performance of the subcontract.

SECTION 31. SLAVERY DISCLOSURE ORDINANCE

- 31.1. Unless otherwise exempt in accordance with the provisions of this Ordinance, this Contract is subject to the Slavery Disclosure Ordinance, Section 10.41 of the Los Angeles Administrative Code, as may be amended from time to time. Corporation certifies that it has complied with the applicable provisions of this Ordinance. Failure to fully and accurately complete the affidavit may result in termination of this Contract.

SECTION 32. WARRANTY AND RESPONSIBILITY OF CORPORATION

- 32.1. Corporation warrants that the work performed hereunder shall be completed in a manner consistent with professional standards practiced among those firms within Corporation's profession, doing the same or similar work under the same or similar circumstances.

SECTION 33. CONFIDENTIAL INFORMATION

- 33.1. Certain types of information obtained and possessed by City, including certain tax and business data, have been determined to be confidential information by the City Attorney and will not be made available to Corporation.

SECTION 34. SIGNATURE AUTHORITY

- 34.1. The City Clerk of the City of Los Angeles and the Chairman of the Board, President, or Vice President and Secretary, Assistant Secretary, Chief Financial Officer, or Assistant Treasurer of Corporation declare that they are authorized to execute this Agreement on behalf of City and Corporation.

SECTION 35. STANDARD PROVISIONS FOR CITY CONTRACTS

- 35.1 Contractor agrees to comply with the Standard Provisions for City Contracts (Rev. 10/17) [v.2], attached hereto as Appendix A and made a part hereof. In the event of any inconsistency between the provisions in the body of this Agreement and the attachments, the provisions in the body of this Agreement take precedence, followed by the Standard Provisions for City Contracts (Appendix A).

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IN WITNESS WHEREOF, this Agreement is duly executed by the CITY OF LOS ANGELES and the LI'L TOKYO BUSINESSMEN'S ASSOCIATION, for administration of the Little Tokyo Business Improvement District on behalf of the parties to this Agreement.

CORPORATION:

Li'l Tokyo Businessmen's Association, a California non-profit mutual benefit corporation

By: _____

JOANNE KUMAMOTO

Title: Co-Chairperson

Date: _____

CORPORATION:

Li'l Tokyo Businessmen's Association, a California non-profit mutual benefit corporation

By: _____

ELLEN ENDO

Title: Co-Chairperson

Date: _____

CITY:

CITY OF LOS ANGELES, a municipal corporation, acting by and through the Office of the City Clerk

By: _____

HOLLY L. WOLCOTT
City Clerk

Date: _____

APPROVED AS TO FORM:

MICHAEL N. FEUER, City Attorney

By: _____

Deputy City Attorney

Date: _____

ATTESTATION:

HOLLY L. WOLCOTT, City Clerk

By: _____

Deputy City Clerk

Date: _____

Council File No: 14-0385

Agreement No. _____